



AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
BOARD OF
PATENT APPEALS AND INTERFERENCES

In re Application of: Michael J. Dove

Serial No.: 10/053,292

Filed: January 23, 2002

For: **TELESCOPING EXTENSION POLE WITH
BUILT-IN TUBE END PROTECTION**

Group Art Unit: 3676

Examiner: Williams, Mark A.

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please find included:

Appellant's Reply Brief in response to the Examiner's Answer mailed December 19, 2006.

Appellant's Reply Brief begins on page 3 of this correspondence and consists of 13 pages numbered 3-14.

In this regard sections (i)-(vi) and (viii)-(x) of the Reply Brief remain essentially the same as contained in Appellant's Appeal Brief filed January 24, 2006. In regard to section (vii) of Appellant's Reply Brief, for the sake of efficiency, Appellant has presented arguments to address only those Examiner's statements not previously presented.

If minor corrections are required to place the Reply Brief into acceptable condition, Appellant invites the Examiner to contact Appellant to discuss such corrections deemed

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop: Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 [37 CFR 1.8(a)].

Michael J. Dove

Date Jan. 15, 2007

necessary in an effort to more efficiently and productively further prosecution of the above-referenced application.

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Reply Brief

(i) Real Party of Interest

The real party of interest for purposes of the appeal filed herewith is Michael J. Dove.

(ii) Related Appeals and Interferences

This is an appeal from the final rejection of the Examiner dated September 9, 2005. A prior Notice of Appeal was filed on November 22, 2004, and an Amended Appeal Brief was filed on January 24, 2006.

(iii) Status of Claims

Claims 1-4 (canceled)

Claims 5-6 (rejected)

Claim 7 (canceled)

Claims 8-16 (rejected)

Accordingly, Claims 5, 6, and 8-16 are the subject of the appeal.

(iv) Status of Amendments

No amendment was filed subsequent to the Final Office Action mailed September 9, 2005. Accordingly, Claims 5, 6, and 8-16 stand rejected and are the claims being appealed.

(v) Summary of Claimed Subject Matter

The extension pole assembly of the present invention includes a plurality of pole segments configured substantially the same. (paragraph 004, line 7) The pole segments are connected together in such a way so that as each successive pole segment is joined together (or as each joined pole segment is removed) an extension pole assembly having a protective end cap is formed without removal of the protective end cap of any other pole segment. (paragraph 008, lines 8-9)

As shown in Figure 1, each pole segment includes a first hollow cylindrical end portion 20 and a second hollow cylindrical end portion 30 having an external diameter 30a smaller than the internal diameter 20a of the first end portion 20. (paragraph 006, lines 3-7) The second end portion 30 preferable includes a compression fitted insert or protective cap 34 made of rubber or similar resilient material inserted therein. (paragraph 008, lines 4-5) Accordingly, every pole segment has an end cap placed into the smaller diameter end portion.

When desiring to form a pole having a length longer that what currently exists, the second end portion 30, that is the smaller diameter end 30a having a protective cap 34 inserted therein, of the first pole segment (segment of the existing extension or leading pole) is received into a first end portion 20, that is the larger diameter end 20a, of a second pole segment (segment added or trailing to extend the pole). (paragraph 006, lines 5-8) The first end 20 or larger diameter portion of the very first pole segment will typically have a paint roller, scrapper, brush, duster, or some other utility attachment connected. (paragraph 009, lines 1-3) As each pole segment, configured substantially the same, is connected, an extension pole assembly having a protective cap 34 is formed without removal of the protective end cap 34 of the first pole segment or any other pole segment. (paragraph 008, lines 8-9)

Alternatively, when desiring to form a pole having a length shorter than what currently exists, removal of each successively added pole segment results in a pole assembly having a protective end cap 34 without removal, replacement, exchange, or substitution of any other protective end cap 34.

Each pole segment may be joined via fiction fit or each pole segment may include a locking push button mechanism comprising an aperture 21 located on the first end portion 20 (larger) and a corresponding push button 22 mounted on a tubular spring 33 and located on the second end portion 30 (smaller). (paragraph 008, lines 1-4) When connecting like pole segments, the push button is forced through the aperture 31, and held into place by the spring 33.

(vi) Grounds of Rejection

35 U.S.C. §112, second paragraph

Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 9, the Examiner alleges, “the extension pole is formed with the cap of the second pole segment formed without removal of the cap” is not understood in the context of the claimed invention.

In Claim 13, the Examiner alleges, “ the extension pole is formed with the cap of the last pole segment added formed without removal of the cap . . . ” is not understood in the context of the claimed invention.

In regard to both Claims 9 and 13, the Examiner further contends that the aforementioned text appears to be a method step of actual formation of the cap, as opposed to a structural limitation.

35 U.S.C. §103

In regard to Appellant's claimed invention including end cap, Claims 5, 6, 8-10, 12-14, and 16 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over U.S. Patent No. 2,712,950, issued to Siebert in view of U.S. Patent No. 6,557,572, issued to Lah.

In regard to Appellant's claimed invention including locking mechanism, Claim 11, and 15 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Siebert '950 in view of Lah '572, and further in view of U.S. Patent No. 5,779,386 issued to Eichhorn.

(vii) Arguments

Of the above-referenced claims, Claims 5, 9, and 13 are independent. Once patentability of those claims is established, all claims depending therefrom are likewise allowable.

Accordingly, the remarks set forth below focus primarily on those independent claims.

CLAIM REJECTIONS – 35 U.S.C. §112, second paragraph

Appellant's arguments, as contained in Appellant's Appeal Brief, regarding the Examiner's rejection of Claims 9 and 13 as allegedly being indefinite remain unchanged.

In this regard, in rejecting Claim 9, the examiner alleges the phrase "the extension pole is formed with the cap of the second pole segment formed without the removal of the cap" is not understood in the context of the claimed invention. If that phrase is expanded to read "so that the extension pole is formed with the cap of the second pole segment formed without removal of the cap from the first pole segment" (emphasis added) it becomes abundantly clear that the phrase is stating a desired end result based on the structural relationship of the elements recited earlier in the claim. The phrase merely explicitly states what was already implicitly stated in the claim. Actually, the phrase "so that . . . segment" can be removed without changing the scope of the claim. In this regard, if a person were to join together pole segments configured substantially the same, e.g.

a smaller external diameter segment having an end cap inserted therein received into a larger internal diameter segment, he/she would find, without being told explicitly, that an extension pole is formed with the cap of the second pole segment formed without removal of the cap from the first pole segment.

Accordingly, Appellant respectfully submits that Claim 9, and likewise for the same reasoning Claim 13, when considered as a whole and read in view of the specification are sufficiently clear to reasonably apprise those skilled in the art of the structure, use, and scope of the invention.

Despite any alleged method step existing in Claims 9 and/or 10, the end result or final structure of Appellant's invention remains the same and is not disclosed, taught, or otherwise made obvious by the art cited.

In regard to the Examiner's statement in paragraph (10) of the Examiner's Answer that the "second end cap of the second pole section was not previously set forth in the claim language, Appellant respectfully disagrees.

In this regard, line 6 of Claim 9 introduces a second pole segment and then goes on to set forth that the second pole segment is configured substantially the same as the first pole segment that was introduced in line 1 of Claim 9. Lines 2-5 of Claim 9 added structural limitations (including a cap inserted therein the smaller diameter end section) that define the first pole segment. Accordingly, when Claim 9 set forth that "the second pole segment is configured substantially the same as the first pole segment", the second pole segment is understood to include among other things, a cap. As such, the second end cap of the second pole segment was previously set forth in the claim language. Even if the cap is deemed not to have been previously

set forth in the claim, as indicated above, its presence in the "so that . . . segment" can be removed without changing the scope of the claim.

CLAIM REJECTIONS - 35 U.S.C. §103

Appellant respectfully submits that Siebert in combination with Lah and/or Eichhorn does not disclose a pole arrangement/assembly having a plurality of pole segments configured substantially the same in which:

(1) each pole segment includes first and second tube portions of different size diameters;

(2) the smaller diameter tube portion of each pole segment has a end cap inserted therein:

and

(3) the smaller diameter tube portion having the end cap is received into the larger diameter tube portion such that an extension pole arrangement/assembly having an end cap is formed without removal of the end cap from any other pole segment. (**Claim 5, 9, and 13**)

Despite repeated attempts by the Appellant to explain the simple sectional handle of Siebert to the Examiner, section (9) Grounds of Rejection, paragraph 4, of the Examiner's Answer is exemplary of the Examiner's continued misguided understanding of the prior art.

In this regard, the Examiner states that, "Siebert provides successively joined pole segments (5, 8, 9), each segment being substantially identical. Each segment comprising first 10 and second tube portions 11 (see figure 2). The first tube portion of a first pole segment is received into the second tube portion of a second pole segments, as claimed."

First of all, reference number 5 is not a pole segment. Reference number 5 designates the handle of Siebert's invention (Column 1, line 71).

Second, each pole segment of the Siebert device is not substantially the same. Pole segments as defined by Appellant's invention include all those segments that make up the

extension pole from the point of article attachment, i.e., paint roller, etc., to the end of the handle. In this regard, pole segment 6 of Siebert's sectional handle includes a threaded end 4 (Column 1, line 71, and Figure 7) and a socket portion 11 at the opposite end. No other pole segment of Siebert's handle is formed substantially the same as segment 6. Likewise, pole segment 9 of Siebert's sectional handle includes a dowel portion 10 at one end and a top section with a closure cap 12 inserted therein. The top section is presumably neither a dowel portion nor a socket portion since it was not identified as such. No other pole segment of Siebert's sectional handle is formed substantially the same as segment 9. Accordingly, each and every segment of Siebert's sectional handle does not comprise first 10 and second tube portions 11 as indicated by the Examiner.

Third, as indicated above in referencing the Siebert sectional handle, the Examiner alleges that each segment comprises first 10 and second tube portions 11 (see figure 2). In this regard, the Siebert patent discloses the first portion 10 as a dowel portion and the second portion 11 as a socket portion (Column 2, lines 18-22). With that in mind and referencing the Siebert invention, the Examiner has indicated that the first portion (dowel) of a first pole segment is received into the second tube portion (socket) of a second pole segment, as claimed. However, if pole segment 6 is considered the first pole segment, it does not include a first or dowel portion (as indicated above), it includes a socket. On the other hand, if the Examiner finds that pole segment 5 is the first pole segment, which doesn't make sense when attempting to count pole segments, then the first or dowel portion 10 of segment 5 is received not into segment 8 (the logical next pole segment) but into the second or socket portion 11 of pole segment 6. In other words, using the Examiner's logic in referencing pole segments of the Siebert handle from the

bottom to top of Figure 1 the second pole segment of Figure 1 is actually the first pole segment, and first pole segment of Figure 1 is actually the second pole segment.

As the aforementioned remarks indicate, the Siebert sectional handle is not the structural equivalent of Appellant's invention. Siebert's sectional handle is exactly opposite to the teachings of Appellant's invention.

Finally, on page 8 of the Examiner's Answer, middle of the first full paragraph, the Examiner states that, "minor changes to the plug design to accommodate the connection element 19 of Siebert would be an obvious change in shape.

Once again, the Examiner has missed the point of Appellant's invention. A cap, in accordance with Appellant's invention, is placed into each smaller end of substantially similar pole segments so that the smaller end, including cap, may be received into a larger end of a substantially similar pole segments. On the other hand, as shown in Figure 5 of the Siebert patent, by referencing element 19 of Siebert the Examiner is attempting to place the cap of Lah into a socket or larger segment (indicated by reference 11) of Siebert's sectional handle, the exact opposite of what is taught by Appellant's invention. The Examiner's attempt to place a cap into the socket 11 (larger portion) of each Siebert's section would prohibit the socket from receiving the dowel (smaller portion) unless the cap was removed. Again, this is contrary to Appellant's invention, as one of the primary purposes of Appellant's invention is to be able to extend or reduce the length of the pole without having to remove any end caps from any pole segment.

In consideration of the remarks set forth above and in Appellant's previously submitted Appeal Brief, Appellant respectfully submits that each claim is patentable. Therefore, reversal of all rejections is courteously solicited.

Respectfully submitted,



Michael J. Dove

Dated: January 15 , 2007

(viii) Claims Appendix

5. (Rejected) An extension pole arrangement comprising successively joined pole segments, each pole segment being substantially identical and comprising:

first and second tube portions, the first tube portion extending longitudinally from the second tube portion and terminating with an end cap;

the second tube portion having an open end with an inside diameter greater than the outside diameter of the first tube;

wherein the first tube portion of a first pole segment is received into the second tube portion of a second pole segment, so that the extension pole is formed with the end cap of the second pole segment formed without removal of the end cap from the first pole segment;

the first tube portion including a locking mechanism configured for coacting mating engagement with an aperture in said second tube portion for receiving said locking mechanism.

6. (Rejected) The extension pole arrangement of Claim 5, wherein said second tube portion is of substantially reduced length comparable to said first tube portion.

8. (Rejected) The extension pole arrangement of Claim 5, wherein the end cap is a resilient insert compressibly mounted into the first tube portion and protruding outward therefrom.

9. (Rejected) An extension pole assembly, comprising:

a first pole segment including:

a first hollow cylindrical end portion; and

a second hollow cylindrical end portion having an external diameter smaller than the internal diameter of the first end portion, and having a cap inserted therein;

wherein the second end portion of the first pole segment is received into a first end portion of a second pole segment, the second pole segment configured substantially the same as the first

pole segment so that the extension pole is formed with the cap of the second pole segment formed without removal of the cap from the first pole segment.

10. (Rejected) The extension pole assembly of Claim 9, wherein the second end portion of the first pole segment and the first end portion of the second pole segment are removably connected by a locking mechanism positioned therebetween.

11. (Rejected) The extension pole assembly of Claim 10, wherein the locking mechanism comprises an aperture positioned on the first end portion of the second pole segment for receiving a spring mounted push button positioned on the second end of the first pole segment.

12. (Rejected) The extension pole assembly of Claim 9, wherein the cap protrudes beyond the end of the second end portion and is held in place by compression.

13. (Rejected) An extension pole assembly, comprising:

a plurality of pole segments configured substantially the same and capable of being joined together, each pole segment having a first hollow end portion; and

a second hollow end portion having an external diameter smaller than the internal diameter of the first end portion, and having a cap inserted therein;

wherein the second end portion of one pole segment is received into a first end portion of a different pole segment so that after each successive pole segment is joined together the extension pole is formed with the cap of the last pole segment added formed without removal of the cap of any other pole segment.

14. (Rejected) The extension pole assembly of Claim 13, wherein the second end portion of one pole segment and the first end portion of a different pole segment are removably connected by a locking mechanism positioned therebetween.

15. (Rejected) The extension pole assembly of Claim 14, wherein the locking mechanism comprises an aperture positioned on the first end portion of one pole segment for receiving a spring mounted push button positioned on the second end of a different pole segment.
16. (Rejected) The extension pole assembly of Claim 13, wherein the cap protrudes beyond the end of the second end portion and is held in place by compression.

(ix) Evidence Appendix

None

(x) Related Proceedings Appendix

None